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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,923	09/28/2000	Michael Ferraro	P99,1195	8586

7590 10/23/2002
Holland & Knight LLP
Suite 800
55 West Monroe Street
Chicago, IL 60603

EXAMINER

CUEVAS, PEDRO J

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/672,923

Applicant(s)

FERRARO, MICHAEL

Examiner

Pedro J. Cuevas

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 2-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,14-17,19,22-26,28 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 18,20,21,27,29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 30 recites the limitation "said mechanism". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 14-16, 22-25, 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,936,652 to Levine in view of U.S. Patent No. 4,070,131 to Yen, further in view of U.S. Patent No. 4,706,593 to Vail, Jr.

Levine clearly teaches the construction of a power system (Figure 1) comprising a tube cluster comprising:

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a central outlet tube (20) having a narrowed center for channeling an upward flowing airflow and heat-radiating surfaces (94);

a plurality of inlet tubes (22) each being defined by a cylindrical wall; and

including a turbine in the outlet tube narrowed center to be driven by the airflow.

Yen teach the construction of a tornado-type wind turbine having a collector end (ram-air inlet 84) located at a distance from said central tube, communicating with said central outlet tube (61) for delivering air flow from said inlet tube collector end to said central outlet tube.

Vail, Jr. teach the construction of a swiveling wind scoop having a sail with the bottom end extending along a curved boom.

It would have been obvious to one skilled in the art at the time the invention was made to use a multiple sail collector loop wind scoop as disclosed by Vail, Jr. instead of the ram-air inlet used by Yen on the plurality of inlet tubes of the power system disclosed by Levine for the purpose of providing a swiveling wind scoop which can respond to changes in the magnitude and direction of the wind.

7. With regards to claims 14-16, Levine in view of Yen, further in view of Vail, Jr. teaches the construction of a power system having:

a plurality of wind collector assemblies, each attached to a collector end of an inlet tube, and comprising:

a vertical mast (16),

a curved boom (17), and

a flexible sail (10) connected at its top end to the mast and at its bottom end to the curved boom,

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a steering sail (20) for orienting said wind collector assembly.

8. With regards to claim 22, it must be noted that Levine in view of Yen, further in view of Vail, Jr. discloses the claimed invention except for the tube cluster comprising multiple inlet tubes arranged in a staggered pattern. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add multiple inlet tubes arranged in a staggered pattern to the tube cluster, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

9. Claims 17, 19, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,936,652 to Levine in view of U.S. Patent No. 4,070,131 to Yen, further in view of U.S. Patent No. 4,706,593 to Vail, Jr. as applied to claims 1, 14-16, 22-25, and 31-33 above, further in view of U.S. Patent No. 5,134,952 to Doolittle.

Levine in view of Yen, further in view of Vail, Jr. discloses a power system as described above.

However, it fails to disclose a wind generating apparatus, further comprising:

a tensioner connected to said curved boom and to said bottom end of the sail

whereby wind loads on said sail can be managed, and said tensioner comprises:

a counterbalance weight;

a cable affixed on one end to said bottom end of said sail, and affixed on an other end to said counterbalance weight, said counterbalance weight providing a constant tension on said sail.

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Doolittle teaches the construction of a tensioning mechanism, the tensioning mechanism connected to said curved boom and to said bottom end of the sail, the tensioner comprising: a counterbalance weight and a cable affixed on one end to said bottom end of said sail, and affixed on an other end to said counterbalance weight, said counterbalance weight providing a constant tension on said sail for the purpose of adjusting the downhaul tension and/or outhaul tension.

It would have been obvious to one skilled in the art at the time the invention was made to use the tensioning mechanism disclosed by Doolittle on the wind powered generating device disclosed by Levine in view of Yen, further in view of Vail, Jr. for the purpose of adjusting the downhaul tension and/or outhaul tension.

Allowable Subject Matter

10. Claims 18, 20-21, 27, and 29-30 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to disclose a wind power generating device as claimed, and having:

a spring loaded, damped drum;

a wound cable affixed on one end to said bottom end of said sail and affixed on another end to said drum, said drum providing constant tension on said sail;

a mechanism for reducing the area of the sail presented to the ambient wind airflow in response to a predetermined load on the sail;

a collector loop slidably connected to said mast, said loop being movable downwardly along said mast in response to a predetermined load on said sail thereby substantially reducing the area of said sail presented to the ambient air flow.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro J. Cuevas whose telephone number is (703) 308-4904. The examiner can normally be reached on M-F from 8:30 - 6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Néstor R. Ramírez can be reached on (703) 308-1371. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pedro J. Cuevas
October 19, 2002


KARL TAMAI
PRIMARY EXAMINER